



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on June 3, 2014.

Date of Meeting: November 6, 2013

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:31 p.m., on Wednesday, November 6, 2013, all members having been notified of the time and place thereof.

1. **ROLL CALL**

The meeting was called to order by Mayor Rothschild and upon roll call, those present and absent were:

Present:

Regina Romero
Paul Cunningham
Karin Uhlich
Shirley C. Scott
Richard G. Fimbres
Steve Kozachik
Jonathan Rothschild

Council Member Ward 1
Council Member Ward 2
Council Member Ward 3
Vice Mayor, Council Member Ward 4
Council Member Ward 5
Council Member Ward 6
Mayor

Absent/Excused:

None

Staff Members Present:

Richard Miranda
Michael Rankin
Roger W. Randolph

City Manager
City Attorney
City Clerk

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Reverend Owen Chandler, Saguaro Christian Church, after which the Pledge of Allegiance was presented by the entire assembly.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Rothschild announced City Manager's communication number 417, dated November 6, 2013, was received into and made part of the record. He also announced this was the time scheduled to allow members of the Mayor and Council to report on current events and asked if there were any reports.

Current event reports were provided by Mayor Rothschild and Council Members Romero, Cunningham, Uhlich, Fimbres, and Kozachik. A recording of this item is available from the City Clerk's Office for ten years from the date of this meeting.

4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Rothschild announced City Manager's communication number 418, dated November 6, 2013, was received into and made part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

Current event reports were given by Richard Miranda, City Manager, and Michael Rankin, City Attorney. A recording of this item is available from the City Clerk's Office for ten years from the date of this meeting.

5. LIQUOR LICENSE APPLICATIONS

Mayor Rothschild announced City Manager's communication number 428, dated November 6, 2013, was received into and made part of the record. He asked the City Clerk to read the Liquor License Agenda.

b. Liquor License Application(s)

New License(s)

1. Iron John's Brewing Company, Ward 6
245 S. Plumer Ave. #27
Applicant: John Alan Adkisson
Series 3, City 55-13
Action must be taken by: September 21, 2013

Staff has indicated the applicant is in compliance with city requirements.

2. Magpies Gourmet Pizza, Ward 2
105 S. Houghton Rd. #149
Applicant: Thomas Robert Aguilera
Series 12, City 57-13
Action must be taken by: October 7, 2013

Staff has indicated the applicant is in compliance with city requirements.

3. Albertson's #961, Ward 3
2854 N. Campbell Ave.
Applicant: Nicholas Carl Guttilla
Series 9S, City 67-13
Action must be taken by: November 17, 2013

Staff has indicated the applicant is in compliance with city requirements.

Public Opinion: Written Argument In Favor Filed

NOTE: State law provides that for a new license application, "In all proceedings before the governing body of a city...the applicant bears the burden of showing that the public convenience requires and that the best interest of the community will be substantially served by the issuance of a license." (A.R.S. Section 4-201)

Person Transfer

4. Jacks Original BBQ, Ward 4
5250 E. 22nd St.
Applicant: Sylvia Julia Williams
Series 7, City 48-13
Action must be taken by: September 5, 2013

Tucson Police Department, Planning and Development Services Department and Revenue Investigations have indicated the applicant is in compliance with city requirements.

City Clerk's Office has indicated the applicant is not in compliance with city requirements.

Public Opinion: Written Argument in Favor Filed

This item was continued at the request of the applicant.

NOTE: State law provides that for a person to person transfer, Mayor and Council may consider the applicant's capability, qualifications and reliability. (A.R.S. Section 4-203)

c. Special Event(s)

1. North Fourth Avenue Merchant Association, Ward 6
4th Ave. between University Blvd. and 9th St.
Applicant: John A. Sedwick
City T127-13
Date of Event: December 13, 2013 - December 15, 2013
(Fundraiser)

Staff has indicated the applicant is in compliance with city requirements.

2. Downtown Tucson Partnership, Ward 6
220 S. 5th Ave.
Applicant: Brandi Renee Haga
City T128-13
Date of Event: November 23, 2013
(El Tour de Tucson)

Staff has indicated the applicant is in compliance with city requirements.

3. Tucson Rodeo Committee, Inc., Ward 5
4801 S. 6th Ave.
Applicant: Gary G. Williams
City T131-13
Date of Event: February 15, 2014 - February 23, 2014
(89th Annual Tucson Rodeo)

Staff has indicated the applicant is in compliance with city requirements.

4. Desert Voices, Ward 6
160 S. Scott Ave.
Applicant: Kathie Ann Polaski
City T135-13
Date of Event: December 14, 2013
(Fundraiser)

Staff has indicated the applicant is in compliance with city requirements.

5. Pan Left Productions, Ward 1
140 N. Main Ave.
Applicant: Michael Fenlason
City T138-13
Date of Event: November 23, 2013 - November 24, 2013
(Fundraiser)

Staff has indicated the applicant is in compliance with city requirements.

d. Agent Change/Acquisition of Control

1. Diamond Shamrock Corner Store #1613, Ward 1
2160 W. Drexel Rd.
Applicant: George Leonard Engle
Series 10, City AC12-13
Action must be taken by: November 11, 2013

Staff has indicated the applicant is in compliance with city requirements.
2. Diamond Shamrock Corner Store #1623, Ward 1
2616 S. Mission Rd.
Applicant: George Leonard Engle
Series 10, City AC13-13
Action must be taken by: November 11, 2013

Staff has indicated the applicant is in compliance with city requirements.
3. Diamond Shamrock Corner Store #1617, Ward 3
1810 W. Prince Rd.
Applicant: George Leonard Engle
Series 10, City AC14-13
Action must be taken by: November 11, 2013

Staff has indicated the applicant is in compliance with city requirements.
4. Diamond Shamrock Corner Store #1634, Ward 4
6310 E. Golf Links Rd.
Applicant: George Leonard Engle
Series 10, City AC15-13
Action must be taken by: November 11, 2013

Staff has indicated the applicant is in compliance with city requirements.
5. Corner Store #1609, Ward 4
1909 S. Craycroft Rd.
Applicant: George Leonard Engle
Series 10, City AC16-13
Action must be taken by: November 11, 2013

Staff has indicated the applicant is in compliance with city requirements.
6. Corner Store #1665, Ward 4
10335 E. Drexel Rd.
Applicant: George Leonard Engle
Series 10, City AC17-13
Action must be taken by: November 11, 2013

Staff has indicated the applicant is in compliance with city requirements.

7. Corner Store #1640, Ward 4
9520 E. 22nd St.
Applicant: George Leonard Engle
Series 10, City AC18-13
Action must be taken by: November 11, 2013

Staff has indicated the applicant is in compliance with city requirements.

8. Diamond Shamrock Corner Store #1648, Ward 5
4570 S. Campbell Ave.
Applicant: George Leonard Engle
Series 10, City AC19-13
Action must be taken by: November 11, 2013

Staff has indicated the applicant is in compliance with city requirements.

9. Diamond Shamrock Corner Store #1627, Ward 5
1895 E. Valencia Rd.
Applicant: George Leonard Engle
Series 10, City AC20-13
Action must be taken by: November 11, 2013

Staff has indicated the applicant is in compliance with city requirements.

10. Corner Store #1616, Ward 5
920 E. 22nd St.
Applicant: George Leonard Engle
Series 10, City AC22-13
Action must be taken by: November 11, 2013

Staff has indicated the applicant is in compliance with city requirements.

NOTE: The local governing body of the city, town or county may protest the acquisition of control within sixty days based on the capability, reliability and qualification of the person acquiring control. (A.R.S. Section 4-203.F)

It was moved by Council Member Romero, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license applications 5b1 through 5b3, 5c1 through 5c5 and 5d1 through 5d10 to the Arizona State Liquor Board with a recommendation for approval.

6. CALL TO THE AUDIENCE

Mayor Rothschild announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except for items scheduled for a public hearing. Speakers were limited to three-minute presentations.

Mayor Rothschild also announced that pursuant to the Arizona Open Meeting Law, individual Council Members may ask the City Manager to review the matter, ask that the matter be placed on a future agenda, or respond to criticism made by speakers. However, the Mayor and Council may not discuss or take legal action on matters raised during “call to the audience.”

Roger W. Randolph, City Clerk, announced there were Spanish Language Interpreters available to assist anyone in the audience needing Spanish language translation for items listed on the agenda.

Comments were made by:

Robert Reus	Norma Price	Kelly Matthews
Ruth Beeker	Dr. Roberto Rodriguez	Shawn Earl
Belem Chagolla	Narciso Valenzuela	Paula McPheeters
Barclay Goldsmith	Egla Gutierrez	John Kromko

Council Member Cunningham directed the City Attorney to provide information to Ms. Matthews regarding the Mayor and Council’s direction provided during Study Session Item 5.

A recording of this item is available from the City Clerk’s Office for ten years from the date of this meeting.

7. CONSENT AGENDA – ITEMS A THROUGH E

Mayor Rothschild announced the reports and recommendations from the City Manager on the Consent Agenda were received into and made part of the record. He asked the City Clerk to read the Consent Agenda.

a. APPROVAL OF MINUTES

1. Report from City Manager NOV06-13-427 CITY WIDE
2. Mayor and Council Regular Meeting Minutes of April 23, 2013
3. Mayor and Council Study Session Legal Action Report and Summary Minutes of April 23, 2013
4. Mayor and Council Regular Meeting Minutes of May 7, 2013
5. Mayor and Council Study Session Legal Action Report and Summary Minutes of May 7, 2013
6. Mayor and Council Regular Meeting Minutes of May 14, 2013
7. Mayor and Council Study Session Legal Action Report and Summary Minutes of May 14, 2013

- b. ECONOMIC DEVELOPMENT: APPROVING AND AUTHORIZING MODIFICATION OF THE BOUNDARY OF THE DOWNTOWN FINANCIAL INCENTIVE DISTRICT
 - 1. Report from City Manager NOV06-13-419 WARDS 1 AND 6
 - 2. Resolution No. 22153 relating to Economic Initiatives; approving and authorizing modification of the boundary of the Downtown Financial Incentive District ("DFID"); and declaring an emergency.
- c. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH THE REGIONAL TRANSPORTATION AUTHORITY OF PIMA COUNTY FOR LIBERTY AVENUE BICYCLE BOULEVARD AND SAFE ROUTES TO SCHOOL PROJECT
 - 1. Report from City Manager NOV06-13-422 WARD 5
 - 2. Resolution No. 22154 relating to Intergovernmental Agreements; authorizing and approving the execution of Amendment No. 1 to an Intergovernmental Agreement for Transportation Funding between the Regional Transportation Authority of Pima County (RTA) and the City of Tucson for the Liberty Avenue Bicycle Boulevard and Safe Routes to School Project; and declaring an emergency.
- d. INTERGOVERNMENTAL AGREEMENT: WITH THE ARIZONA BOARD OF REGENTS FOR CONSTRUCTION OF A TRAFFIC SIGNAL ON KOLB ROAD AT THE SCIENCE AND TECHNOLOGY PARK ENTRANCE
 - 1. Report from City Manager NOV06-13-423 WARD 4
 - 2. Resolution No. 22156 relating to Intergovernmental Agreements; approving the Intergovernmental Agreement between the City of Tucson and the Arizona Board of Regents, for and on behalf of the University of Arizona, for construction of a traffic signal on Kolb Road at the Science and Technology Park entrance; and declaring an emergency.
- e. INTERGOVERNMENTAL AGREEMENT: WITH THE REGIONAL TRANSPORTATION AUTHORITY OF PIMA COUNTY FOR THE REGIONAL TRAFFIC SIGNAL OPERATIONS PROGRAM
 - 1. Report from City Manager NOV06-13-424 CITY WIDE AND OUTSIDE CITY
 - 2. Resolution No. 22155 relating to Intergovernmental Agreements; approving the Intergovernmental Agreement for transportation funding between the Regional Transportation Authority of Pima County (RTA) and the City of Tucson for the Regional Traffic Signal Operations Program; and declaring an emergency.

It was moved by Council Member Cunningham, duly seconded, and passed by a roll call vote of 7 to 0, that Consent Agenda Items a – e be passed and adopted and the proper action taken.

8. PUBLIC HEARING: TUCSON CODE – AMENDING (CHAPTER 16) THE NEIGHBORHOOD PRESERVATION ORDINANCE (CITY WIDE)

Mayor Rothschild announced City Manager's communication number 421, dated November 6, 2013, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on the proposed amendments to the Neighborhood Preservation Ordinance. He stated staff would like to make a brief presentation before beginning the public hearing.

Mayor Rothschild said the public hearing was scheduled to last for no more than one hour and speakers were limited to five minute presentations.

Mayor Rothschild requested staff to specify the amendments to the Neighborhood Preservation Ordinance (NPO).

Andrea Ibanez, Housing and Community Development Department (HCDD) Interim Director, stated the NPO was amended several times since it was originally passed in 2003. She noted the current amendments were in circulation since June 2012 and included changes in definitions for outdoor storage, Section 16-12 about building and structure exteriors some change of wording to clarify maintenance requirements for exterior of a building including windows, skylights, and doors, Section 16-13i – exterior premises and vacant land, Section 16-15 – junk motor vehicles, a further discussion about junk or inoperable vehicles needed to be stored in an enclosed carport or garage but those that are stored outside will be restricted to the rear or side yard, 16-49 – on limiting yard sales to four events per calendar year. In addition, Ms. Ibanez said there were suggestions regarding commercial vehicles, but it was dropped for the time being.

Mayor Rothschild stated he wanted to be clear that the amendments were junk vehicles have to be stored behind an enclosed fence or something where they are not seen, yard sales to four per year, parts of home and maintenance of the home in Section 16-12, and what would create an enforcement issue.

Ms. Ibanez stated some of the things that could create an issue were gutters, soffits, and decorative elements that needed to be maintained and kept in place. There were past situations where those things were hanging down and presented a danger to the public.

Mayor Rothschild clarified she was referring to dilapidated or dangerous conditions.

Colette Altaffer, Catalina Vista Neighborhood Association, spoke in support of the proposed amendments to the NPO.

Eileen Green, former President of the Enchanted Hills Neighborhood Association, spoke in support of the proposed amendments to the NPO.

Mayor Rothschild stated to Eileen Green that the commercial vehicle proposal was deferred to another study so there would be more time to be heard.

Les Pierce, Arroyo Chico Neighborhood Association, spoke in opposition to the proposed amendments to the NPO.

Beryl Baker spoke in opposition to the proposed amendments to the NPO.

Ruth Beeker spoke in support of the proposed amendments to the NPO.

Chuck Martin spoke in opposition to the proposed amendments to the NPO..

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Rothschild asked the City Clerk to read Ordinance 11126 by number and title only.

Ordinance No. 11126 relating to Neighborhood Preservation; amending Chapter 16 of the Tucson Code, the "Neighborhood Preservation Ordinance"; amending definitions; amending requirements for building and structure exteriors, amending exterior premises and vacant land provisions; amending outdoor storage provisions; amending junked or inoperable vehicles provisions; by amending Chapter 16, Section 16-3, 16-12, 16-13, 16-15, and adding a new section 16-39.1; and declaring an emergency.

It was moved by Vice Mayor Scott, duly seconded, to pass and adopt Ordinance 11126.

Council Member Uhlich requested staff to address the lack of differences between rental and homeowner occupied dwellings and asked if it was a distinction legal for us to insert.

Michael Rankin, City Attorney, stated Section 16-12 and 16-13 did apply throughout the City and did not make a distinction between home ownership and rental properties. He said he did not think they could make that distinction for these types of minimum housing requirements.

Council Member Uhlich stated when she raised questions about the operability of windows, the glazing and some of the other sections, she was told that it was in the context of other building codes or conditions of housing elements of NPO. She asked for

other elements of the NPO that addressed those type of issues and the rational for expanding.

Ms. Ibanez responded that the intent of the NPO was to promote and preserve the health, safety, and welfare of the Citizens of Tucson and to protect residences and neighborhoods against hazardous, blighting, and deteriorating influences or conditions that diminish quality of life and can contribute to the downgrading of neighborhood property values. She stated the overriding statement of intent was in regards to maintenance of elements, which in many cases are structural elements such as windows. She stated with regards to rental/landlord this protected people who are renters more than strictly homeowners because tenants under landlords/tenant act have mostly a contractual type of agreement. If there were things that were not working in the home, such as a window that needed to be operable in a bedroom so that one could escape in the event of fire, a tenant would call if it was not working well. She also confirmed what Mr. Rankin had indicated trying to differentiate between what applied to a rental unit versus a homeowner unit.

Council Member Cunningham thanked Les Pierce for the points he made during the public hearing and stated he would like to see some amendments that would be worked out in-house first. He expressed his support of the proposed amendments.

Council Member Fimbres asked under Section 16-12 how houses and/or buildings that were built prior to 1940 qualified under the historic preservation zone or otherwise would be mandated to follow the provisions.

Ms. Ibanez stated buildings were required to be maintained to function properly but were to meet the codes at the time they were built. She stated if someone had an older home, a historic home, they were not required to have it up to today's code unless certain other development issues were in place. Therefore, they would not require older or historic homes to look like a building in a new development.

Council Member Fimbres inquired what would happen to individuals who could not afford to make the changes listed under the proposed changes.

Ms. Ibanez noted when they received calls about housing and property issues, she stressed that the majority of calls were about weeds and trash, which were easily dealt with. She stated they also had referrals to what they called Neighbor to Neighbor groups which existed in neighborhood associations whereby they could come out and help. She specified if it was a particularly serious case, Pima County Probation could be contacted to do clean up work.

Ms. Ibanez stated a vendor could be hired to do the clean up work and it be charged to the individual or a lien could be place on the property. She noted in neighborhoods, like El Cortez, where a clean up was held every couple months and they looked at homes where they were elderly people who could not maintain their property. She stated when an inspector went out they spoke with the individuals and talked with

them about the notice of violation, which was a warning not a ticket. She indicated the notice of violation indicated that there was something that needed to be attended to and in some case there could be extenuating circumstances and the clean up needed to be done but not as a hardship on the homeowner.

Council Member Fimbres asked how Section 16-39, regarding yard sales, would be enforced.

Ms. Ibanez stated they were mostly complaint driven, which had to do with a number of staff that the City was able to support. She indicated if someone was over reaching on the yard sales, a neighbor would call. She mentioned that at the last study session the enforcement had to do with the individual tolerance of the neighborhood.

Ordinance 11126 was passed and adopted by a roll call vote of 7 to 0.

9. PUBLIC HEARING: ZONING (SE-13-14) AT&T – 25TH STREET, R-2 ZONING, WIRELESS COMMUNICATION FACILITY, SPECIAL EXCEPTION LAND USE, CITY MANAGER'S REPORT, DIRECT ORDINANCE ADOPTION

Mayor Rothschild announced City Manager's communication number 415, dated November 6, 2013, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on a Special Exception Land Use request for property located north of 25th Street and west of 3rd Avenue. He said the Zoning Examiner and staff recommended denial of the Special Exception Land Use request.

Mayor Rothschild asked if the applicant or representative was present.

Greg Lake, on behalf of AT&T, stated they were there to demonstrate two important facts about the particular site. First, the site was necessary for AT&T's coverage because there was a significant gap in coverage at the location in those neighborhoods. Second, the site was the least intrusive means of covering the gap. He presented maps to demonstrate a significant gap in coverage. He said an engineer for AT&T, was available to answer questions regarding the maps.

Mayor Rothschild inquired about alternative sites.

Mr. Lake stated they considered an alternative site at Santa Rita Park, but the City Parks Department was not in agreement. He said they looked at other locations within the area, specifically two sites, but neither were acceptable.

Mr. Lake went on to say this was the least intrusive site for four reasons. First, it was an existing City utility location. Second, it was surrounded by an eight-foot CMU block wall. Third, it was surrounded by existing vegetation, including mesquite trees surrounding the utility installation. Fourth, the site would be built as a fake palm tree.

Mr. Lake said they offered to be the spearhead and build the site as a mono-eucalyptus. They presented it to the neighbors, but it was not accepted. He said other options presented to the neighbors were also rejected. They met with the neighbors three times and went to five Zoning Examiner hearings. He stated they had agreed to postpone the hearings multiple times. Since they filed their application, 267 days had passed. He concluded requesting the Mayor and Council to approve the application.

Mayor Rothschild asked if the tower would be seventy feet tall.

Mr. Lake answered affirmatively.

Mayor Rothschild stated the setback requirement under current ordinance required the setback be two times the height of the structure. He requested confirmation that the setback would be one hundred and forty feet.

Mr. Lake answered affirmatively, but noted they did not meet the setback requirement.

Mayor Rothschild asked if there was a home within one hundred feet of the location.

Mr. Lake said he believes the facility is located across the street.

Council Member Kozachik questioned whether the setback requirement was met within the Santa Rita Park location. He also asked why the City determined it to be an unfit site and if they were talking about a gap in coverage or capacity.

Mr. Lake stated they were talking about a gap in coverage.

Michael Rankin, City Attorney, clarified the issue with Santa Rita Park was not that there was no location within the Santa Rita Park that would be acceptable to the City Parks and Recreation Department, but the preferred site identified by the Applicant would not meet Parks and Recreation's policies for location because it would be close to the ball field. He noted Parks and Recreation asked the Applicant to consider another location within the park, near utility and maintenance facilities, and that was not something the Applicant was interested in.

Mr. Lake said they preferred to lease City property because it helped them satisfy their obligations under their master agreement with the City. However, the location proposed by the Parks and Recreation Department, as a secondary preference, did not cover the gap in coverage.

Mayor Rothschild announced the public hearing was scheduled to last for no more than one hour and speakers were limited to five minute presentations.

Miriam Weber spoke in opposition to the Special Exception Land Use request.

Dennis Williams, Cabrini Neighborhood Association and a member of Neighbors for Safer Wireless, spoke in opposition to the Special Exception Land Use request.

James Getsi spoke in opposition to the Special Exception Land Use request.

Angie Quiroz, Barrio Santa Rita, spoke in opposition to the Special Exception Land Use request.

Elizabeth Kelley, Tucson Mountain Neighborhood Association, spoke in opposition to the Special Exception Land Use request.

Manon Getsi spoke in opposition to the Special Exception Land Use request. Ms. Getsi asked Mayor and Council if the City of Tucson had a contract with AT&T.

Mr. Rankin noted the City has a bulk rate lease agreement with AT&T which provided them a somewhat discounted lease rate if, in fact, over time they established a certain number of sites, fifteen sites total, on City-owned property. He noted AT&T still had to go through the approval process with Mayor and Council.

Tim Burmer, FM Group Inc, said he was here on behalf of the Applicant and was available to answer any questions Mayor and Council may have.

Mr. Lake stated he would like to add more to the discussion.

Mayor Rothschild explained to Mr. Lake he had his time to speak.

Mr. Lake stated he felt he should have more time to respond to the allegations raised during the public hearing.

Mayor Rothschild explained to Mr. Lake he had reserved the time for Mr. Burmer.

It was moved by Council Member Uhlich, duly seconded, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Rothschild asked the City Clerk to read Ordinance 11123 by number and title only.

Ordinance No. 11123 relating to Zoning; a special exception land use– wireless communications facility– SE-13-14 AT&T – 25th Street – located on the north side of 25th Street, approximately 160 feet west of 3rd Avenue; approving with conditions the construction of a wireless communication tower and antennas, concealed within an artificial palm tree (monopalm), 70 feet in height with associated ground equipment within a 36-foot by 36-foot lease area in the R-2 zone; and setting an effective date.

Roger W. Randolph, City Clerk, announced that a simple majority vote was necessary to adopt the ordinance.

It was moved by Council Member Fimbres, duly seconded, to deny the request as recommended by the Zoning Examiner, based on testimony heard during the public hearing, the number of written protests received and lack of any written approvals, and recommendations from the Zoning Examiner and staff in the Mayor and Council agenda material.

Mr. Rankin requested if the motion was approved that it include direction to the City Clerk and City Attorney to follow-up with a notice of decision in writing to the Applicant listing the reasons for the decision.

Mayor Rothschild asked that the factual and legal basis for the denial be outlined in the notice.

Mr. Rankin stated the basis for denial was identified in the motion excluding issues raised with respect to environmental or health concerns which were not within the scope of the consideration.

Mayor Rothschild inquired that the reason they could not hear those issues was because they were preempted by federal laws.

Mr. Rankin stated that was correct.

Council Member Kozachik requested to see the map of the ball field, which was rejected by the City, which was an industrial location within the park that would not provide the coverage

Mr. Burmer presented the exhibit of where the candidates were located and stated the exhibit demonstrated where the candidates were located. He showed where the park site was and alternative industrial site location.

Council Member Kozachik asked why the alternative industrial site was rejected.

Mr. Burmer stated the sites were not rejected and were acceptable to the RF engineers for the network. The sites were not as optimum of a solution as the candidates being presented.

Council Member Kozachik asked what would happen to the coverage map if the tower was placed on one of the industrial sites.

Mr. Burmer stated the map represented the industrial zone.

Council Member Kozachik questioned if the tower was placed where AT&T was asking, was the coverage area good. He also asked what would happen to the coverage map if the tower was placed in the industrial site.

Mr. Burmer answered that Council Member Kozachik was correct if the AT&T tower was placed where they were requesting it. He also indicated it was never stated that the industrial location would not work.

Council Member Kozachik stated Mr. Burmer said the industrial location would not work.

Mr. Burmer stated the reason these sites were not optimum was that they were very close to the outside of the coverage area. The site in question, even though it was not centered in the coverage area, was much closer aligned to the center of the coverage area than either of the industrial properties. He said it was never their assertion that the industrial properties would not work.

Mayor Rothschild reiterated Council Member Kozachik's question about the coverage if the tower was placed in the industrial area.

Mr. Burmer said a majority of the coverage would be accounted for.

The motion to deny the request and not adopt Ordinance 11123 was passed by a roll call vote of 7 to 0.

10. PUBLIC HEARING: AMENDING (CHAPTER 23B) THE UNIFIED DEVELOPMENT CODE AND TECHNICAL STANDARDS MANUAL

Mayor Rothschild announced City Manager's communication number 430, dated November 6, 2013, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on the proposed text amendments to the Unified Development Code and Technical Standards Manual. Mayor Rothschild announced staff would like to make a brief presentation on the matter.

Ernie Duarte, Planning and Development Services Director, stated they were operating with the Unified Development Code (UDC) since January 2013. With the implementation of the UDC there had been some clerical errors discovered that needed to be corrected.

Mayor Rothschild announced the public hearing was scheduled to last for no more than one hour and speakers were limited to five minute presentations.

There were no speakers.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Rothschild asked the City Clerk to read Ordinance 11127 by number and title only.

Ordinance No. 11127 relating to Planning and Zoning: amending the Tucson Unified Development Code, Chapter 23B, Article 3, General Procedures, Section 3.2, General Requirements, Subsection 3.2.2 Neighborhood Meeting; Subsection 3.2.3 Application Requirements, Table 3.2-1 Public Notice and Procedural Requirements; Subsection 3.2.4, Public Notice; Section 3.4, Special Exception Land Uses, Subsection 3.4.3, Zoning Examiner Special Exception Procedure; Subsection 3.4.4 Mayor and Council Special Exception Procedure; Section 3.5, Rezoning (Change of Zoning), Subsection 3.5.3, Zoning Examiner Legislative Procedure; Subsection 3.5.5, Planned Area Development (PAD) Zone; Section 3.10, Board of Adjustment Appeals and Variances, Subsection 3.10.3, Variances; Section 3.11, Administrative Modifications, Subsection 3.11.1, Design Development Option (DDO); Article 4, Zones, Section 4.8, Use Tables, Subsection 4.8.3, Permitted Uses: Rural and Suburban Residential Zones, Table 4.8-1, Permitted Uses - Rural and Suburban Residential Zones; Subsection 4.8.4, Permitted Uses: Urban Residential Zones Table 4.8-2 Permitted Uses - Urban Residential Zones; Subsection 4.8.6, Permitted Uses: Commercial and Mixed Use Zones, Table 4.8-4 Permitted Uses – Commercial and Mixed-Use Zones; Subsection 4.8.7, Permitted Uses: Industrial Zones, Table 4.8-5 Permitted Uses - Industrial Zones; Section 4.9, Use Specific Standards, Subsection 4.9.7, Residential Use Group; Subsection 4.9.13, General Standards, Restrictions, and Exceptions; Article 5, Overlay Zones, Section 5.3, Scenic Corridor Zone, Subsection 5.3.4, Scenic Route Buffer Area; Section 5.8 “H” Historic Preservation Zone (HPZ), Subsection 5.8.8, Maintenance; Article 6, Dimensional Standards and Measurements, Section 6.3, Dimensional Standards, Subsection 6.3.4, Dimensional Standard and Exceptions Tables, Table 6.3-2.B: Exceptions to the R-1, R-2, R-3, MH-1 & MH-2 Dimensional Standards; Article 7, Development Standards, Section 7.6, Landscaping and Screening, Subsection 7.6.4, Landscape Standards; and declaring an emergency.

It was moved by Council Member Fimbres, duly seconded, and passed by a roll vote of 7 to 0, to pass and adopt Ordinance 11127.

11. PUBLIC HEARING: ZONING (C9-12-11) MAHALO PROPERTIES – WRIGHTSTOWN ROAD, RX-1 TO R-1, CHANGE OF CONDITIONS AND PRELIMINARY DEVELOPMENT PLAN, AND ORDINANCE ADOPTION

Mayor Rothschild announced City Manager's communication number 425, dated November 6, 2013, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on a request for a change of conditions and preliminary development plan for property located on the southwest corner of Wrightstown Road and Brown Avenue. He said staff recommended approval of the requested conditions and preliminary development plan.

Mayor Rothschild asked if the applicant or representative was present and agreeable to the proposed requirements.

Linda Morales, Planning Center/Mahalo Properties, stated they were agreeable to the proposed requirements.

Mayor Rothschild announced the public hearing was scheduled to last for no more than one hour and speaker were limited to five minute presentations.

Father Andriy Chirovsky, St. Michael Ukrainian Catholic Church, spoke in support of the requested conditions and preliminary development plan.

Jackie Gannon, Wrightstown Neighborhood, spoke in support of the requested conditions and preliminary development plan. Ms. Gannon asked if they could talk about Items 11 and 12.

Mayor Rothschild stated yes.

Ms. Gannon asked if Council Member Cunningham would like to explain the changes that would be occurring in Item 12, so she could address them.

Council Member Cunningham explained that Ms. Gannon could speak about items eleven and twelve. He stated the concerns Ms. Gannon was going to explain had already been talked about during the week. He stated he would address her concerns after she spoke.

Mayor Rothschild asked Ms. Gannon to tell the Mayor and Council her concerns and the Mayor and Council would have to pass Item 11 to get to Item 12.

Ms. Morales stated Item 11 was the first phase in a two phase project, and Item 12 was the second phase. Item 11 was originally zoned before phase two was a reality. The change of conditions was a result of needing to punch through the street to continue to phase two. For the second phase there were questions as to the number of homes agreed to. She said everyone agreed to make the deal in phase one with full transparency that they were working on phase two. The idea was what they did in phase one was what they would do in phase two. The development team heard the established density would be the density in phase two. However, what the neighbors heard was the number of homes, which came down to twelve versus thirteen. Ms. Morales noted the Zoning Examiner approved the request for the original thirteen homes, but in subsequent discussions they agreed to change it to twelve.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Rothschild asked the City Clerk to read Ordinance 11124 by number and title only.

Ordinance No. 11124 relating to Zoning: Ordinance amending zoning conditions for approval of the zoning district boundaries in the area located at the southwest corner of Wrightstown Road and Brown Avenue in Case C9-12-11, Mahalo Properties – Wrightstown Road, RX-1 to R-1 zoning; and declaring an emergency.

Roger W. Randolph, City Clerk, announced a simple majority vote of the Mayor and Council was necessary to adopt the ordinance.

It was moved by Council Member Cunningham, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Ordinance 11124.

12. ZONING: (C9-13-02) MAHALO PROPERTIES – BROWN AVENUE, RX-1 TO R-1, CITY MANAGER'S REPORT, DIRECT ORDINANCE ADOPTION

Mayor Rothschild announced City Manager's communication number 426, dated November 6, 2013, was received into and made part of the record. He also announced this was a request to rezone property located on the west side of Brown Avenue, south of Wrightstown Road. He said the Zoning Examiner and staff recommend adoption of the Ordinance.

Mayor Rothschild stated the applicant was present.

Linda Morales, Planning Center/Mahalo Properties, stated they were agreeable to the proposed requirements.

Mayor Rothschild asked if there were any revisions to the original recommendation.

Ernie Duarte, Planning and Development Services Director, said Condition #9 needed to be revised to reflect the number of residential units agreed to by the developers. He noted the current Ordinance read thirteen on-site residential units when it should specify twelve.

Council Member Cunningham stated the height of the wall in phase one must be in compliance and the buildings in phase one would be consistent with those built in phase two. In addition, Mr. Cunningham thanked the developers for meeting with him to discuss the neighborhood's concerns.

Mayor Rothschild asked the City Clerk to read Ordinance 11125 by number and title only.

Ordinance No. 11125 relating to Zoning: amending zoning district boundaries on the west side of Brown Avenue, approximately 600 feet south of Wrightstown Road in Case C9-13-02 Mahalo Properties – Brown Avenue, RX-1 to R-1; and setting an effective date.

Roger W. Randolph, City Clerk, announced the motion required a three quarter majority vote.

It was moved by Council Member Cunningham, duly seconded, and passed by a roll vote of 7 to 0, to approve the request as recommended by the Zoning Examiner and pass and adopt Ordinance 11125, with the revision to Condition #9.

13. ZONING: (C9-13-09) GIRL SCOUTS – BROADWAY BOULEVARD, R-1 AND P TO C-1, CITY MANAGER'S REPORT

Mayor Rothschild announced City Manager's communication number 420, dated November 6, 2013, was received into and made part of the record. He also announced this was a request to rezone approximately 0.8 of an acre from R-1 and P to C-1 zoning. The rezoning site was located at the southeast corner of Broadway and Columbus Boulevard. He said the Zoning Examiner and staff recommend approval of C-1 zoning subject to certain conditions.

Mayor Rothschild asked if the applicant or representative was present and agreeable to the proposed requirements.

Marsha Tank, Girl Scouts of Southern Arizona, stated they were agreeable to the proposed requirements.

It was moved by Council Member Kozachik, duly seconded, and carried by a voice vote of 7 to 0, to authorize the request for rezoning as recommended by the Zoning Examiner.

14. PRE-ANNEXATION AND DEVELOPMENT AGREEMENT: WITH THE OWNERS OF THE PROPERTY LOCATED AT 11219 E. SHADY LANE

Mayor Rothschild announced City Manager's communication number 416, dated November 6, 2013, was received into and made part of the record. He asked the City Clerk to read Resolution 22152 by number and title only.

Resolution No. 22152 relating to Pre-Annexation and Development Agreements; authorizing and approving the execution of a Pre-Annexation and Development Agreement between the City of Tucson and Ralph and Valerie Matthews, the owners of real property located at 11219 E. Shady Lane.

It was moved by Council Member Cunningham, duly seconded, and passed by a roll call vote of 7 to 0, to authorize the request for rezoning as recommended by the Zoning Examiner.

15. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Rothschild announced City Manager's communication number 429, dated November 6, 2013, was received into and made part of the record. He asked for a motion to approve the appointment in the report.

It was moved by Council Member Uhlich, duly seconded, and carried by a voice vote of 7 to 0, to approve the appointment of Kristi Frank as the El Presidio Neighborhood Association Representative to the Downtown Links Citizen Advisory Committee (DLCAC).

Mayor Rothschild asked if there were any personal appointments to be made.

Council Member Cunningham announced his personal appointment of Amy Wacker to the Tucson Pima Arts Council (TPAC).

16. ADJOURNMENT: 8:05 p.m.

Mayor Rothschild announced the next regularly scheduled meeting of the Mayor and Council would be held on Wednesday, November 13, 2013, at 5:30 p.m., in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 6th day of November 2013, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR: lo:sf